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January 26, 2005

Marlene H. Dortch
Secretary,
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Communication
MB Docket Nos. 02-277, 01-317, 01-235, 96-197, 00-244

Dear Ms. Dortch:

In compliance with 47 CFR §1.1206(b), this letter gives notice that on January 25, 2005, Angela Campbell, Karen Henein, and Nicholas Heinke from the Institute for Public Representation at the Georgetown University Law Center met with Commissioner Kathleen Q. Abernathy and Matthew Brill, Senior Legal Advisor, to discuss whether the Commission should seek Supreme Court review of *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3d Cir. 2004).

We discussed a number of consequences should the Supreme Court review the case. Specifically, we explained that a grant of *certiorari* would put many important issues at risk, such as regulation of Digital Television, indecency, and children's television. Additionally, we pointed out that if the Supreme Court overturns the Third Circuit's interpretation of Section 202(h) of the Telecommunications Act of 1996 and adopts a more restrictive standard, the interpretation of similar provisions in the 1996 Act (specifically the interpretation of Section 11 relating to the regulation of telecommunications) would be placed in jeopardy. Finally, we observed that the Commission and the industry would be better served if the delay of a Supreme Court argument was avoided and reconsideration of the 2002 Biennial Review began promptly.

Sincerely,

/s/

Angela J. Campbell

cc: Commissioner Kathleen Q. Abernathy
Matthew Brill